IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 13623 of 2004

Between:

Social Welfare Residential Educational Institutions Society Non-Teaching Association (Regd.No. 3754/95)
rep. by its President B. Pramod Kumar S/o B. Laxmaiah, aged 35 years, R/o Masab Tank, Hyderabad.

..... PETITIONER

AND

1 Government of Andhra Pradesh, Social Welfare Department Rep. by its Prl. . .. Secretary, Secretariat, Hyderabad.
2 The Secretary, A.P. Social Welfare Residential Educational Institutions .. … … Society, Telugu Sankshema Bhavan, Masab Tank, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ , Order or Direction more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in not considering the applications for transfer of Non-teaching staff belonging to the Petitioner Association as illegal, discriminatory, arbitrary, and the one in violation of Article 14 of the Constitution of India besides contrary to their guidelines issued in Circular No. G2/13237/2004 dt. 24-6-2004 consequently direct the respondents to consider the transfer applications of the Non-teaching staff members belonging to the petitioner Association.

Counsel for the Petitioner:MR.V.R.MACHAVARAM

Counsel for the Respondent No.1: The GP FOR SOCIAL WELFARE

Counsel for the Respondent No.2: Mr.Vijaya Bhaskar Reddy

The Court at the stage of admission made the following :

ORDER:

The petitioner is an association of Non-Teaching Staff of the 2nd respondent Society. The petitioner contends that there was a ban of the transfers of teaching and non-teaching staff of the 2nd respondent society. The Government of Andhra Pradesh relaxed the ban of transfer of employees for a limited period upto 15-7-2004, through G.O.Ms. No. 512 Finance (W & M) Department, dated 14-6-2004 fixing certain norms regarding the transfer of the employees. The 2nd respondent society consequently issued a circular in R.C.No.G2/13237/2004, dated 24-6-2004 inviting the applications from the eligible teaching and non-teaching cadre working in various schools in the State of A.P. for considering the requests in consonance with the G.O.Ms.No.512. The petitioner further contends that about 150 applications from non-teaching category have submitted their applications to the 2nd respondent, seeking transfers within the stipulated date. But, the respondents have issued transfer orders only to the teaching staff vide order dated 26-7-2004 and did not consider the applications of the non-teaching staff. The petitioner's association submitted a detailed representation to the respondents, but, no action was taken by the respondents on the said representation. The petitioners, therefore, approached this Court seeking a direction to the respondents to consider the applications of the petitioners regarding their requests for transfer by holding that the non-considering of the applications of non-teaching staff amounts to discrimination under Article 14 of the Constitution of India.

2nd Respondent filed a counter affidavit stating that out of the total applications of 1241 received from teaching and non-teaching staff, 881 applications of the eligible candidates from teaching and non-teaching staff have been forwarded to the Government. But, the Government directed the respondents to minimize the transfers as far as possible, in the interests of administration. Therefore, the 2nd respondent society have again submitted proposal to Government with 788 applications of the Principals and the teaching staff, out of those applications, the Government have considered only 148 applications of the Principal and teaching staff and issued

G.O.Rt. No. 337, dated 26-7-2004. The 2nd respondent therefore submitted that since the academic year is already started, considering the applications of non-teaching staff and Class IV employees at that stage is not possible. The 2nd respondent was constrained to minimize the transfers, in the interest of administration. The 2nd respondent further mentioned that appointing authority has discretion in the matter and he is best judge to decide how to distribute and utilize the services of the employees. The 2nd respondent, therefore, requested to dismiss the Writ Petition by holding that the action of the 2nd respondent does not warrant any interference from this Court.

The 2nd respondent while minimizing the candidates have forwarded 788 applications of Principals and Teaching Staff. But, the 2nd respondent did not forward any of the applications of non-teaching staff. No reason has been assigned in the counter affidavit, except saying that the applications were minimized, in the interest of administration. While forwarding the applications of the Principal and Teaching Staff, the respondents ought to have considered the most deserving cases of some of the applicants and ought to have forwarded those applications to the Government, leaving the decision to the Government to consider some of the applications for transfer. The non-forwarding of any applications of the non-teaching staff and non-assigning of any reason for not forwarding even a single application of the non-teaching staff amounts to discrimination.

Therefore, this is a fit case where, this Court has to issue a direction to the 2nd respondent to scrutinize the applications of the Non-Teaching Staff which were presented within time and recommend the names of such employees which can be considered as the most deserving cases and it is for the Government to take an appropriate decision on such recommendations by the 2nd respondent.

In the result, the Writ Petition is disposed of with a direction to the 2nd respondent to forward the applications of the most deserving non-teaching staff members who submitted their applications within time to the Government and it is for the Government to take an appropriate decision, on the recommendations of the 2nd respondent. No order as to costs.

Dr.G.Yethirajulu, J.

10th September, 2004.

KM

SD/-

SPECIAL OFFICER

// TRUE COPY //

SECTION OFFICER

To

1 The Principal Secretary to the Government of Andhra Pradesh Social Welfare Department, Secretariat, Hyderabad.
2 The Secretary, A.P. Social Welfare Residential Educational Institutions .. … … Society, Telugu Sankshema Bhavan, Masab Tank, Hyderabad.

3. 2CCs to G.P. for Social Welfare,High Court Buildings, Hyderabad(OUT).

2. 2CD copies

THE HON'BLE DR JUSTICE G.YETHIRAJULU

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10th September, 2004.